

Docket No.: 0020-4559P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Eijiro WATANABE et al.

Application No.: 09/301,766

Confirmation No.: 6045

Filed: April 29, 1999

Art Unit: 1638

For: RAFFINOSE SYNTHASE GENES AND THEIR
USE

Examiner: D. H. Kruse

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed on August 23, 2007, Applicant submits herewith a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37 as follows:

On August 23, 2007, the Examiner mailed a Notice of Non-Compliant Appeal Brief in the above-identified matter ("Notice"). The Notice indicates that the Appeal Brief filed July 22, 2007 was not compliant with the rules for the format of an Appeal Brief in that:

4. The Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any. ... The claimed invention is [not] mapped to all the independent claims filed in the application, which shall refer to the specification by page and line number.

7. The brief does not contain a correct copy of the appealed claims as an appendix thereto. The Claims Appendix has claim 5 as being allowed, however the Status of Claims has the claim involved in the appeal. Please clarify.

10. The Appeal Brief lacks as signature.

As to item 4, the originally filed Brief included description of the support for each of the claims in the application at pages 7-9. The clerk appears to have objected merely to the format in which that information was presented. In a telephone conversation with the clerk on September 20, 2007, she clarified that the claims should be set out and the support for each element should be inserted into the claim as appropriate. This section of the Brief has been reformatted as suggested.

As to item 7, the status of claim 5 as rejected and on appeal has been clarified in the Claims Appendix, as has the status of claim 7 as allowed.

As to item 10, the corrected Brief has been signed.

A corrected copy of the Appeal Brief is provided attached hereto. Applicants' Representative believes that the supporting copies of evidence listed in Appendix B have been received, and so additional copies are not provided.

Entry of the corrected Appeal Brief and forwarding of the application to the Examiner for the Appeal Conference and preparation of the Examiner's Answer, if necessary, are requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell (Reg. No. 36,623) at

Application No.: 09/286,906


Docket No.: 0879-0230P

the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: September 24, 2007

Respectfully submitted,

By 
Mark J. Nuell
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(858) 792-8855
Attorney for Applicant